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Financial reports and audited financial statements, and reports of the Board of Auditors

Review of the efficiency of the administrative and financial functioning of the United Nations

Report on the activities of the Office of Internal Oversight Services

Report on the activities of the Procurement Task Force

Report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Board of Auditors on the activities of the Procurement Task Force for the period from 1 January 2006 to 30 June 2007 (A/63/167) and the report of the Secretary-General on the implementation of the recommendations of the Board of Auditors contained in its report on the activities of the Procurement Task Force (A/63/167/Add.1). The Advisory Committee also had before it the report of the Office of Internal Oversight Services on the activities of the Procurement Task Force for the period from 1 July 2007 to 31 July 2008 (A/63/329) and the related report of the Secretary-General containing his comments in that regard (A/63/329/Add.1). During its consideration of those reports, the Advisory Committee met with the members of the Audit Operations Committee, representatives of the Office of Internal Oversight Services, including the Chairman of the Procurement Task Force, and representatives of the Secretary-General, who provided additional information and clarification.

2. In paragraph 5 of its resolution 62/234, the General Assembly requested the Advisory Committee to request the Board of Auditors to conduct an audit of the activities of the Procurement Task Force for the period from 1 January 2006 to 30 June 2007, including in respect of its compliance with established transparency and accountability measures of the Organization and the Office of Internal Oversight Services, and to report thereon separately to the General Assembly at the main part of its sixty-third session. The Advisory Committee made the request in a letter to the Board of Auditors dated 16 January 2008.

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3. **The Advisory Committee welcomes the report of the Board of Auditors (A/63/167) and its work and analysis in this regard. The report highlights that the work of the Procurement Task Force did not expose widespread corruption at the United Nations; it also sheds light on the activities of the Procurement Task Force, the procedures followed and the difficulties encountered and makes recommendations thereon.**

4. The context of the creation of the Procurement Task Force is set out in paragraphs 1 to 8 of the Board's report (A/63/167) and its terms of reference are provided in the annex to the report; information and analysis on the financial and human resources of the Procurement Task Force is summarized in paragraphs 14 to 30 of the Board's report. The Board points out the challenges that arose. Individuals with the necessary competencies, which the United Nations lacked up to that point, had to be recruited from outside, requiring rapid training to ensure consistency of methods and adequate knowledge about the organization in which they would operate. The Board further notes that the temporary nature of the Task Force hindered the implementation of common and consistent investigative methods and that the high turnover of staff was a detriment to the retention of knowledge within the Task Force itself and to its credibility in the eyes of the staff under investigation.

5. The methodology used by the Board in conducting the audit is presented in paragraphs 9 to 13. The Committee notes that the Board read 22 final reports issued by the Task Force, and then chose a sample of 7 reports for which it examined the results of actions taken, conducted interviews and had conversations with members of the Task Force, the administration, the Under-Secretaries-General for Internal Oversight Services, Management, Legal Affairs and Peacekeeping Operations, as well as staff implicated in the investigations, among other actions.

6. The results of the audit conducted by the Board of Auditors are described in paragraphs 31 to 51 of the report. The Board points out, in paragraph 45 of its report, that "[a]s at the end of March 2008, the Procurement Task Force estimated the overall value of the contracts in which irregularities had been suspected to be around $630 million. The actual value of losses incurred could not be determined. The Procurement Task Force was only able to identify clear losses of $25 million, of which $20 million relate to the same person".

7. The Committee also notes that the Secretary-General, in his comments on the activities of the Procurement Task Force for the period from 1 July 2007 to 31 July 2008, emphasized that the amount of $630 million represented only the total contract value which, in the view of the Office of Internal Oversight Services, had been tainted by corruption and fraud. Furthermore, the Secretary-General indicated that, once the Office had completed an investigation and finalized a related report, the final determination of whether any rules had been breached was made by the Secretary-General and his programme managers, followed by internal justice procedures, where applicable. According to the Secretary-General, the findings of the Procurement Task Force should therefore be regarded as those of the Procurement Task Force and not a final determination by the Organization (A/63/329/Add.1, paras. 2-3).

8. In paragraphs 34 and table 4 of its report, the Board refers to the types of violation uncovered in the reports of the Procurement Task Force and the nature of resulting proceedings. **The Committee stresses that the Secretary-General may wish to pay particular attention to addressing the underlying reasons for these**

occurrences, inter alia by improving awareness of staff rules and regulations, as well as expeditiously improving and updating the procurement and investigation manuals.

9. In paragraphs 52 to 88 of its report, the Board of Auditors elaborates on the procedures applied by the Procurement Task Force in carrying out its tasks. As indicated therein, the rules observed in the area of investigations are set out in the Office of Internal Oversight Services Manual of Investigation Practices and Policies (published in 2005), including the requirements for due process and fairness, and in the report of the Secretary-General on rules and procedures to be applied for the investigation functions performed by the Office of Internal Oversight Services (A/55/469). Other rules, which the Board qualifies as "more favourable" to those being questioned, which were gradually added between mid-2006 and April 2007 but have not been formalized, are summarized in paragraph 58 of the report (see also para. 20 below).

10. The Board of Auditors emphasizes that it has no jurisdiction to rule on possible violations of due process by the Administration and that its findings, therefore, do not prejudge the assessments that could be brought by the jurisdictions involved with the cases. However, within the limits of its review, which is based on the sample of seven reports (see para. 5 above), the Board did not find any violation of the rules of procedure as set out in the investigation manual (A/63/167, paras. 61 and 62). Furthermore, the Board deemed it useful to include in its report criticisms expressed by staff questioned by the Procurement Task Force on the rules applicable to the investigations, in order to analyse the reasons for the criticism and recommend improvements to the process. These relate to the absence of formalization, dissemination and transparency in the rules followed by the Procurement Task Force; the conditions for the application of the existing rules; the desire for additional rights; and the clarification of the audit and investigative role of the Procurement Task Force and the applicable rules of procedures (A/63/167, paras. 66-86).

11. **The Committee is of the opinion that the Secretary-General should draw on the issues raised by the Board of Auditors and the experience gained by the Procurement Task Force in order to ensure that the Organization has internal capacity to deal with such matters in future so as to avoid the need to resort to ad hoc measures.**

12. In light of its analysis of the operations of the Procurement Task Force, the Board of Auditors makes five recommendations, which are contained in paragraph 91 (a) to (e) of its report. **The Advisory Committee recommends that the General Assembly endorse the Board of Auditors' recommendations, taking into account the Committee's own comments and recommendations.**

13. The Board of Auditors recommends that the Administration incorporate the skills and competencies of the Procurement Task Force, and lessons learned from its operations, into the permanent investigations system of the United Nations (A/63/167, para. 91 (a)). It also recommends that the Administration ensure the proper handing over of the pending investigations when the Procurement Task Force ceases to operate (A/63/167, para. 91 (e)). The Advisory Committee notes that the Secretary-General, in his comments in response to the Board of Auditors report, indicated that arrangements were being made for the transfer of knowledge, as well as to ensure that the remaining caseload was properly transferred by the end of 2008

and professionally investigated in the Investigations Division of the Office of Internal Oversight Services (A/63/167/Add.1, paras. 5 and 16).

14. The Advisory Committee also notes, as indicated in the report of the Office of Internal Oversight Services on the activities of the Procurement Task Force (A/63/329, summary and para. 4), that the Procurement Task Force, since its inception in 2006, has been assigned a caseload of 437 cases. It has completed 222 investigations and issued 29 significant reports. Upon enquiry, the Committee was informed that at least 8 more substantial reports were to be issued by the end of 2008 and that more than 150 cases would remain to be addressed. It was also informed that additional cases will continue to be referred to the Office of Internal Oversight Services.

15. In paragraph 90 of its report the Board of Auditors refers to the plans to preserve the competencies and experience of the Procurement Task Force by incorporating them into the existing Investigations Division of the Office of Internal Oversight Services. The Board is of the view that the reinforcement and restructuring of the Investigations Division should be accompanied by a review of the investigative function of the United Nations as a whole (see also A/63/167, para. 91 (b)). **In this connection, the Advisory Committee recalls its report contained in document A/62/7/Add. 35 and General Assembly resolution 62/247.** In response to paragraph 17 of Assembly resolution 62/247, the Secretary-General has submitted a report (A/63/369), which includes information on the status of implementation of Assembly resolution 59/287 and information on all the entities other than the Office of Internal Oversight Services carrying out administrative inquiries and investigations, and the status of work done under general temporary assistance resources to establish a training capacity for the Investigations Division to enable programme managers to handle category II cases of possible misconduct. **The Committee is of the opinion that, in incorporating the competencies of the Procurement Task Force into the Investigations Division, account should be taken of the comments and recommendations made in the Advisory Committee's reports (A/62/7/Add.35, paras. 16 and 23, and A/62/855, para. 159), which were endorsed by the Assembly in its resolutions 62/247 and 62/250.**

16. The Board of Auditors is of the opinion that the inevitably lengthy duration of investigations should lead the Administration to limit the use of investigations to those cases in which they are justified owing to specific elements and what is at stake (A/63/167, para. 42). The Board therefore recommends that the investigation procedure be used very cautiously, only when there are well-founded suspicions that rules have been broken and only after all other reasonable actions have been duly envisaged (A/63/167, para. 91 (c)). As indicated by the Secretary-General, in accordance with paragraph 12 of General Assembly resolution 59/287, it is mandatory for programme managers to report to the Office of Internal Oversight Services allegations of misconduct. The Office, in receiving allegations of misconduct, determines which matters it should investigate. The Investigations Division and the Procurement Task Force have established procedures to evaluate whether matters brought to the attention of the Office should be investigated and a case intake committee has been established to review information that may lead to an investigation (A/63/167/Add.1, paras. 11 and 12).

17. The Advisory Committee also recalls that, in accordance with General Assembly resolution 48/218 B and Secretary-General's Bulletin ST/SGB/273, the

Office of Internal Oversight Services exercises operational independence under the authority of the Secretary-General in the conduct of its duties and, in accordance with Article 97 of the Charter of the United Nations, has the authority to initiate, carry out and report on any action that it considers necessary to fulfil its responsibilities with regard to monitoring, internal audit, inspection, evaluations and investigations.

18. In this connection, the Committee notes that the Secretary-General, in his report (A/63/369, sect. III), which is submitted in response to paragraph 17 of General Assembly resolution 62/247, provided information on the investigations or administrative enquiries carried out by the Office of Internal Oversight Services and other internal entities of the Organization (category I and category II cases), their legislative basis and role, the number and types of cases handled, related resources, reporting mechanisms, standards and guidelines involved and training received. The Secretary-General also indicated, in paragraph 12 of his report contained in document A/63/167/Add.1, that the Office was in the process of preparing guidelines and training modules to assist managers in dealing with allegations of misconduct.

19. In the view of the Board of Auditors, the fact that the Procurement Task Force uncovered many more cases of mismanagement than of criminal conduct reinforces the need for the administration to clearly and strictly define the conditions under which an investigation should be launched. The Board is of the view that an investigation procedure must not be used routinely to improve accountability and efficiency in the management of services. For its part, the Office of Internal Oversight Services pointed out that many investigations that ultimately resulted in findings of mismanagement did not begin as such. It also stated that certain types of severe performance failure constituted misconduct. In that connection, the Secretary-General stated that, in regard to investigation of mismanagement, United Nations Administrative Tribunal decisions have defined severe mismanagement as misconduct that is subject to disciplinary action (A/63/167/Add.1, para. 12). The Secretary-General, in agreeing with the Office that severe performance failures might rise to the level of misconduct, reiterated that the institution of disciplinary action in such cases fell within his discretion and that a recommendation or finding by the Office of severe performance failing did not necessarily constitute misconduct or bind the discretion of the Secretary-General (A/63/329/Add.1, para. 7).

20. The Board of Auditors recommends that the rules and procedures applicable to all investigations in the United Nations be standardized and consolidated under an instruction of the Secretary-General, ensuring that the instruction is systematically provided to the staff interviewed (A/63/167, para. 91 (d)). The Secretary-General indicated in paragraph 14 of his report that development of a comprehensive investigation manual by the Office of Internal Oversight Services was well advanced, that a full draft was due to be available by September 2008 and that, once completed, it would be made available to staff. A revision and expansion of key standard operating procedures, to align the Office with best practices in the system and developing jurisprudence affecting investigations, had been completed and other standard operating procedures, designed specifically for investigators, were being expanded. A comprehensive investigation learning programme to be integrated with the new manual was also under development in order to build the capacity of managers and staff with a role in the investigative process. The full complement of

learning modules was expected to be developed by the end of 2008 and training of managers expected to commence by early 2009. **The Committee stresses the need to complete this work as soon as possible. The Committee is also of the opinion that a Secretary-General's Bulletin would be the appropriate means for conveying to the staff the standardized and consolidated rules of procedure applicable to all investigations in the United Nations.**

21. The Board of Auditors refers in its report to the fact that in spite of great care taken by members of the Procurement Task Force to guarantee the security and confidentiality of documents used in investigations in their offices, press outlets disseminated certain confidential information relating to Task Force investigations at the end of 2007 (A/63/167, para. 88). **The Advisory Committee concurs that the administration must become more vigilant to prevent the breaching of confidentiality of its work.**

22. As indicated by the Board of Auditors, the Procurement Task Force participates as a non-voting invitee in the deliberations of the Vendor Review Committee. The Procurement Task Force provides information relating to investigations and has contributed to the suspension of several vendors (as at 31 March 2008, the number of vendors subject to sanctions, stood at 35 (A/63/167, para. 51)). The Office of Internal Oversight Services, in its report on the activities of the Task Force for the period from 1 July 2007 to 31 July 2008, elaborated on vendor investigations and identified several areas where the Task Force had recommended improvements in the regulatory framework, including amendments to the United Nations General Conditions of Contract, the Procurement Manual, the vendor screening process, information-sharing between the Secretariat and the funds and programmes, as well as proposals for strengthening the Organization's vendor sanctions regime, including providing for financial sanctions, beyond the traditional sanctions regime currently employed (removal and suspension of vendors) (A/63/329, paras. 26-41). The Office recognized that some of those recommendations drew upon the experience of the Procurement Task Force on procurement investigations and on an in-depth examination of processes and procedures of other international organizations, such as the Asian Development Bank and the World Bank.

23. **The Advisory Committee notes that many of these recommendations are within the Secretary-General's responsibility. It welcomes the measures that are presented in his report (A/63/329/Add.1, paras. 9-15).** The Secretary-General indicated his support as regards proposals for strengthening the vendor sanctions regime and stated his belief in the advisability and necessity for the Organization to undertake an in-depth review of the procedures other institutions have in place and to obtain lessons learned information from them. **The Advisory Committee recommends that the Secretary-General proceed with such a review with a view to making recommendations on the legislative framework for establishing such a regime.**

24. The Office of Internal Oversight Services report on the activities of the Procurement Task Force (A/63/329, para. 42) also provides information on the implementation of the recommendations of the Task Force, referrals for prosecution and recovery actions. In that connection, the Office stated that the Task Force had issued 68 recommendations during the period from 1 July 2007 to 31 July 2008, of which 34 remained unaddressed. These included some matters involving referrals of

cases to national authorities and consideration of legal action to be taken by the Organization with regard to the recovery of funds. The Secretary-General reiterated that the findings of the Task Force should be regarded as those of the Task Force and not a final determination by the Organization and that, according to him, such matters required careful review and consideration by all concerned units of the Organization, which cannot be avoided and must be taken into account, including the impact on privileges and immunities, the likelihood of success of the claim if pursued, impact on the reputation of the Organization, evaluation of expected cost and benefit of entering into such action, exposure of the Organization to financial and other risks and potential impact on the internal justice system of the Organization (A/63/329/Add.1, paras. 3 and 16-24).